

**CALMES NECK POINT**  
**Restated Dedication of Plat and Declaration of**  
**Protective Covenants**

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, James A. O'Hare and James P. O'Hare, Declarant, and Imperial Properties, Inc., a Virginia corporation, additional Declarant, hereinafter referred to collectively as "Declarant", do hereby record these protective covenants for **Calmes Neck Point** lying and being situated in the Springfield Magisterial District, Clarke County, Virginia, and being more fully described on the plat and survey of **Calmes Neck Point** and made a part hereof, and recorded in the Clerk's Office of the Circuit Court of Clarke County, Virginia, prior to the recording of this instrument in Plat Book 2 at Page 60 to which reference is hereby made, and said real estate being a part of the same real estate conveyed to the said Declarant by Deed dated July 1, 2005 and recorded in Plat Book 6 at Page 60.

WHEREAS, by unrecorded Contract of Sale, Imperial Properties, Inc. has agreed to repurchase the lots in **Calmes Neck Point** and joins in this Deed of Dedication and Declaration of Protective Covenants for the sole purpose of giving its assent to the same.

The Covenants recorded in Deed Book 448 at Pages 102-110 are hereby vacated and replace with the covenants as set forth below:

All lots in **Calmes Neck Point** Subdivision shall be subject to the following protective covenants, conditions, and restrictions and easements which shall run with the land and shall be binding upon all subsequent owners of the lots:

ARTICLE I  
DEFINITIONS

(1) "Association" shall mean and refer to **Calmes Neck Point** Property Owners' Association, its successors and assigns.

(2) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the property, including contract sellers, but excluding those having such an interest merely as security for the performance of an obligation.

(3) "Property" shall mean and refer to that certain real property described above and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

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(4) "Lot" shall mean and refer to any numbered or lettered plat of land shown upon the recorded subdivision plat of the property.

(5) "Declarant" shall mean "Grantor/Developer" (James A. O'Hare, James P. O'Hare and Imperial Properties, Inc.) and refer to its successors and assigns.

ARTICLE II  
MEMBERSHIP, VOTING RIGHTS, AND OBJECTIVES

(1) Every owner of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot.

(2) The Calmes Neck Point Property Owners' Association is required to secure and maintain a third party liability insurance policy in the principal amount as may be required by the State of Virginia or Federal law from time to time.

(3) On or before December 31, 2006 or when three-fourths (3/4) of the lots have been sold, whichever occurs first, a Property Owners' Association shall be established with membership consisting of the owners (and only the owners) of each lot in **Calmes Neck Point** who shall have one (1) vote per lot owned. A Board of Directors of three (3) members shall be elected by the lot owners, except for the initial Board.

The initial Directors of the Association consisting of one to five members shall be appointed by the Declarant or their assigns and thereafter the Board of Directors shall be elected by the lot owners. The initial Directors shall be responsible for calling the first meeting of the Property Owners' Association on or before January 31, 2007 and shall be responsible for the mailing of the written notice of the lot assessment which is due and payable on February 28, 2007. The meeting shall be held in Clarke County, Virginia, at a suitable place to be designated by the initial Board of Directors. At said meeting, the owners shall by a majority vote, determine whether or not the Association shall be a corporation, an unincorporated association, or other legal entity, and shall elect a Board of Directors and such officers as that may determine necessary, depending on the legal entity which they have selected.

(4) The Duties and Responsibilities of the Property Owners' Association shall include, but not be limited to the following:

(A) Maintain Property Owners' Association, periodically elect officers and directors, and establish and collect fees and dues.

(B) Maintain Financial Records

(C) Administer the upkeep and improvements to the **Calmes Neck Point** Subdivision.

ARTICLE III  
COVENANT FOR MAINTENANCE ASSESSMENT

(1) Each owner of a Lot within **Calmes Neck Point** shall pay an assessment for the reasonable construction, use, maintenance, and expansion of the roads and common areas. All assessments, including any pro-rata share of said assessments, shall be collected by and paid beginning the calendar year of January 1, 2006 through December 31, 2006. The Assessments shall consist of two amounts: An amount determined by the covenants of the Calmes Neck Property Owners which is currently \$474 for 2006. This amount may be increased pursuant to the Rules and By-Laws of the Calmes Neck Property Owners' Association. These funds are used collectively by the Calmes Neck Property Owners' Association for the maintenance of the roads and common areas, including the pool, within the Calmes Neck Subdivision. In addition, each property owner within **Calmes Neck Point** Subdivision shall pay the sum of \$150 per year for the maintenance of the roads solely within the **Calmes Neck Point** Subdivision.

(2) Any assessment made on a property pursuant to this paragraph, including a late fee of Twenty-Five Dollars (\$25.00), interest at the rate of Ten Percent (10%) per annum from the date of delinquency, and reasonable attorney's fees incurred in the collection thereof, shall constitute a lien on this property until paid. This lien is expressly inferior and subordinate to any mortgage liens presently or hereafter encumbering the property affected by these protective covenants. The owner of each lot, by acceptance of a deed thereto, automatically becomes a member of the **Calmes Neck Point** Property Owners' Association to be created as herein set forth, and agrees to pay an amount determined by the positive vote of the Owners of at least two-thirds (2/3rds) of the Lots in **Calmes Neck Point** Subdivision as deemed necessary for the purpose of Maintaining (including the removal of snow and the repairs and improvements of the roads and common areas) the right of ways and roadways and common areas as shown on the subdivision plat. During December of each year, beginning December, 2006 said Association shall notify

each Lot Owner, in writing, as to the amount of the Lot Assessment which shall be due and payable in January of the following year. In the event of a resale or transfer of one or more Lots in said subdivision, this obligation shall run with the land and become the obligation of the new Owner(s) even though it may have been assessed to a prior owner.

(3) If the owner of any Lot is in default in the payment of any assessments, including interest and costs of collection, in addition to any other means of collection, the Property Owners' Association may bring an action at law against the owner personally obligated to pay same.

(4) In exchange for the Declarant's agreement to install and maintain said roadways and rights of way until three quarters of the Lots have been conveyed the Declarant shall be forever exempt from the payment of said annual assessments and road maintenance fees as to all Lots now owned or later reacquired by the Declarant. In the event that the Declarant should reacquire real estate through purchase at a foreclosure sale or through settlement of an Owner's default in any contract, note or deed of trust that the Owner should be obligated to pay the Declarant, Declarant shall not be required to pay any past due assessment that the previous owner may have owed the Association, nor shall the Declarant be required in the future to contribute to the maintenance of the roadways.

(5) Each Lot Owner, by acceptance of a Deed thereto, acknowledges that the roads, rights of way, and common areas are private in nature and shall not be maintained by the Virginia Department of Transportation or other public agency and that the maintenance and improvement thereof shall be the mutual obligation of the Landowners in the subdivision abutting said roads and Common Areas.

ARTICLE IV  
USE RESTRICTIONS

(1) No signs or advertising of any nature shall be erected or maintained on any lot, except for sale or rental signs not to exceed six (6) square feet in area (said signs must comply with Clarke County Ordinances relating to the erection of signs), except for directional and informational signs provided by the Declarant.

(2) Resubdivision of the Lots is prohibited.

(3) No owner of any Lot shall interfere with the natural drainage of surface water from such lot to the detriment

of any other lots. Consequently, in the construction of driveways into any lot, a minimum twelve inch diameter culvert shall be used in constructing the driveway in order to facilitate natural drainage. No parking that obstructs traffic is permitted upon any road within the property, and as part of the development of any lot, the Owner shall provide adequate off-road parking for himself and his guests.

(4) Due to the unsightliness of junk vehicles, no motor vehicle or trailer which does not have current license plates or an inspection sticker not more than six months out of date shall be permitted on any lot. Temporary camping trailers may be placed on any lot, provided they are in compliance with Clarke County and Virginia laws concerning temporary camping. Temporary camping shall be for no more than four months at a time, and no more than six months per year, for the personal use of the owner and his immediate family.

(5) No building of a temporary nature shall be erected or placed on any lot except those customarily erected in connection with building permanent structures, and in such cases, for a period not to exceed twelve months.

(6) Not more than one single family residence shall be erected on a lot. Residences shall contain a minimum of 1800 square feet for a single story or ranch style residence and a minimum of 2,400 square feet for a two story residence. Said square foot minimum is of living area, excluding basement, garage, porch, carport, deck and overhanging eaves. All exterior construction must be completed and closed in within 12 months of the commencement of construction. No exterior siding of masonry block or cinderblock shall be permitted. Guest Homes are permitted provided they comply with the siding requirements and that they are not occupied on a permanent basis. Mobile Homes are not permitted.

(7) Each Lot shall be used for residential or recreational purposes only, and any garage, barn, or guest house must conform generally in appearance and material with any dwelling on said lot.

Notwithstanding the prior paragraph, the following uses are permitted, subject to applicable state and local laws:

(A) Home occupations conducted by the occupant.

(B) Agricultural uses, including incidental use and the construction of accessory buildings connected with the agriculture or with the building of a residence, including

storage of temporary camping and lawn maintenance equipment. Said accessory buildings may be constructed before construction of the residence. Said accessory buildings shall not be used for temporary sleeping or camping quarters.

(C) Not more than one head of livestock per three acres shall be permitted per lot, unless otherwise approved by the Board of Directors of the Property Owners' Association, provided that no pigs or pig pens are allowed within the subdivision. All livestock must be fenced in. Operation of any laying hen, broiler houses, or other poultry business is prohibited. Pets and domesticated animals must be fenced in or otherwise prevented from roaming.

(8) The owner shall maintain, repair and restore, as necessary, the exterior of any building or other improvements erected on any lot owned by him. Owners likewise agree to repair and restore promptly to its prior condition any part of the subdivision road damaged by equipment of Owner or his contractor enroute to or from Owner's lot. All lots improved or unimproved must be maintained by the Owner in a neat and orderly condition at all times. No garbage, trash, or inoperable vehicle or other debris shall be permitted to accumulated or remain on any lot.

(9) No building shall be erected closer than seventy-five (75) feet from the property line, with the exception that where two or more lots are used together for the construction of one dwelling, then the said seventy-five (75) foot setback shall apply only to the outside lines.

(10) All sanitation facilities constructed on any lot shall conform to the regulations of the Virginia State Health Department, Clarke County Health Department, and any other government agency regulating the installation of sewage disposal systems.

(11) No lots shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste must be kept in sanitary containers. All raw materials must be kept from view where possible.

(12) The Declarant reserves unto himself or his assigns the right to erect, maintain, and operate and replace telephone and electric light poles, conduits, and related equipment and water, gas and sewer lines, and the right to grant easements or rights of way therefore, over, on and under a strip of land twenty feet (20) along all of the right of ways (and

additional width as necessary for guying purposes), in addition to easements reserved by any other instruments duly recorded. Where the centerline of roadways or rights of way serve as the property line of a lot, then the twenty foot wide easement herein otherwise reserved, shall exclude any portion of the lot included in the roadways or rights of way, and extend instead, across the remainder of the lot bounding on said roadways or rights of way. Nothing here shall be construed as creating any duty of Declarant to install or maintain any utility services; however, as it is contemplated that actual installation will be made at the expense of the utility and/or the lot owners.

(13) Each lot owner shall have an unobstructed right of way and easement over and across the roads as shown on the subdivision plat as recorded from time to time, for the purpose of ingress and egress to and from the public roads and any common facilities in the subdivision. No part of any lot may be sold or used as a road or right of way to any land outside the Property without advanced written permission of the Declarant.

(14) Reasonable cutting of wood and timber for land clearing is permitted. However, no cutting of wood for commercial purposes is allowed.

(15) If any lot owner shall violate any of the covenants herein, it shall be lawful for any other person, persons, legal entities owning real estate in the subdivision or the Calmes Neck Point Property Owners' Association to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, whether to prevent him from doing so or to recover damages or other dues for such violation. Failure to enforce any provision herein contained shall in no way be deemed a waiver of the right to do so hereafter.

(16) The Association, by a vote of two-thirds (2/3rds) of its members, may make additional rules, covenants, and restrictions for the use of the Property, which together with the above may be deemed advisable by the Association.

(17) Before construction of any building or home each Building Plan must be submitted to the Calmes Neck Property Owner's Association for Review pursuant to the Calmes Neck Property Owner's Association procedure for "Architectural Review;" however, the Calmes Neck Property Owner's Association may advise only and the opinions and advice are not binding on the five lots of **Calmes Neck Point** Subdivision.

ARTICLE V  
GENERAL PROVISIONS

(1) Declarant reserves the right to replat any unsold lot. Nothing herein shall be construed to prevent Declarant from imposing additional covenants/restrictions on any unsold lot(s).

(2) In the event state, local government, and utility companies, or Declarant, requires the installation of a public utility system within the area of which the subdivision is a part, the grantee or grantees, by the acceptance of the deed, so hereby agree to pay their proportional share for the cost of erection, maintenance and operation thereof as determined by the above authority.

(3) The Association or any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereinafter imposed by the provision of this Declaration. Failure by the Declarant or Association or by any owner to enforce any provision contained herein shall in no event be deemed a waiver of the right to do so thereafter.

(4) Declarant reserves the right to reasonably modify, change or waiver these covenants herein without the consent of any of the owners for a period of one year from the date of the sale of the last lot by Declarant from **Calnes Neck Point**.

ARTICLE VI

(1) The covenants, restrictions and other provisions of this Declaration shall run with and bind the land for a period of twenty-five (25) years from the date this Declaration is recorded, after which they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty-five (25) year period by an instrument signed by not less the seventy-five (75) percent of the lot owners. These covenants are in addition to any other covenants or restrictions that may run with the land.

(2) Invalidation of any of the covenants, restrictions, or other provisions of this Declaration by Judgment or Court Order shall in no way affect other provisions, which shall remain in full force and effect.

(3) Whenever in this Declaration the context so



requires, the masculine gender includes the feminine and neuter and singular numbers include the plural and plural numbers include the singular.

WITNESS THE FOLLOWING SIGNATURE AND SEAL of James A. O'Hare and James P. O'Hare, who have caused this instrument to be executed this 10<sup>th</sup> day of April, 2006.

By: *James A. O'Hare*  
James A. O'Hare

By: *James P. O'Hare*  
James P. O'Hare

**IMPERIAL PROPERTIES, INC.**

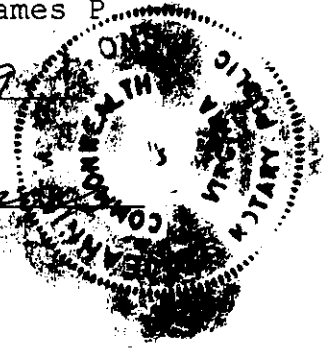
By: *John E. Folds*  
John E. Folds, President

STATE OF VIRGINIA,  
COUNTY OF FAIRFAX, TO-WIT:

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of April, 2006, by James A. O'Hare and James P. O'Hare.

My Commission expires: Nov. 30, 2009

*Jannice M. Clements*  
NOTARY PUBLIC

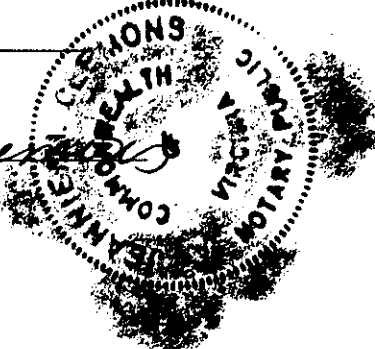


STATE OF VIRGINIA,  
CITY/COUNTY OF FAIRFAX, TO-WIT:

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of April, 2006, by John E. Folds, President of Imperial Properties, Inc.

My Commission expires: Nov. 30, 2009

*Jannice M. Clements*  
NOTARY PUBLIC



Clarke Co., SCT.

This instrument of writing was produced to me on the 14 day of April, 2006 at 9:00 A.M. and with certificate of acknowledgement thereto attached was admitted to record.

Teste: *Helen Butts*, Clerk